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SUBJECT: PROSECUTORS ON DUTCH TERROR ARRESTS

REF: THE HAGUE 2793

Classified By: GLOBAL ISSUES SECTION CHIEF SUSAN GARRO FOR REASONS 1.4
(b) AND (d)

11. (C) Summary. Dutch prosecutors responsible for terrorist cases confirmed during an October 17 lunch that the timing of the arrests of seven terror suspects on October 14 was driven by intelligence information indicating the threat of an imminent attack; they did not provide details on the specific threat. They said that while the National Prosecutors, Office would have preferred to delay the arrests to permit additional evidence collection, they understood why the arrests had to be carried out immediately. They acknowledged that convictions were not assured. The October 14 arrests bring the total number of suspected Hofstad Group members facing trial on terrorist charges to 19, 17 of whom are in custody. End Summary.

12. (C) Four key officials responsible for prosecuting alleged terrorists provided Charge and Embassy officers an assessment of the prospects for successful prosecution of the seven Hofstad group suspects arrested October 14 and the status of Dutch CT legislation. They said the decision to proceed with the arrests now was based on intelligence pointing to an imminent attack. Prosecutors did not provide specifics. Press reports have indicated that discovery of a videotape in which Samir Azzouz allegedly bid his family farewell and referred to something "big" he is about to do played a key role in the timing of the arrests. Asked whether prosecutors would be able to make the charges against Azzouz and the others "stick" this time, given that Azzouz was acquitted of similar charges earlier this year, Thomas Maan, National Counter Terrorism Prosecutor, said, "We hope so." He went on to note that terrorism prosecutions are relatively new in the Netherlands, and consequently, it is not yet fully clear how much evidence will be needed to obtain a conviction.

13. (U) The alleged Hofstad group members -- the seven just arrested and the 12 charged earlier this year -- are the first defendants to be prosecuted under the provisions of the August 2004 legislation that made membership in a terrorist organization and conspiracy to commit a terrorist attack criminal offenses. Thus, the Hofstad Group trials will help establish the standards of evidence required in such cases.

14. (C) The prosecutors noted that proof of both "terrorist intent" and a specific planned attack were required for conviction. While it is not clear what evidence would prove "intent," they expressed confidence that establishing terrorist intent would not be difficult in the case of the seven. They acknowledged that concrete evidence of a specific attack planned by the group was thinner than they would like. Digna van Boetzelaer, team leader for CT and money laundering cases, confirmed press reports that no weapons or explosives had been recovered in the raids and follow-up searches. She and others noted that evidence a suspect was trying to obtain weapons could be used in establishing that he or she was planning an attack. The prosecution would be able to introduce evidence obtained through wiretaps, as well as surveillance videos, and any data obtained from computers seized during the raids. They would not be able to introduce evidence from intelligence sources (other than wiretaps and surveillance videos) because the proposed legislation to allow testimony from intelligence agents without revealing the identity of the source has not yet been enacted.

15. (SBU) According to Mann, the legislative process regarding CT prosecutions has not been completed. He anticipated that passage of pending legislation, including the bill to permit the use of evidence from intelligence sources, would facilitate future terror prosecutions. The prosecutors agreed that the August 2004 law represented a big step forward in being able to prosecute terror suspects in the Netherlands.

16. (C) The group was also in agreement that the Hofstad group was a "homegrown" terror group. Nevertheless, some members may have contacts with other, transnational groups. For example, Samir Azzouz is believed to have traveled to

Spain to meet with a Madrid bombing suspect. Most of those linked to the Hofstad Group are very young; all but one of those arrested October 14 are between 18 and 24; the other is 30. Van Boetzelaer acknowledged that they do not know for sure how many more individuals may be linked to the Hofstad Group, but expressed confidence that they now have the key leaders, including Azzouz, in custody. Prosecutors expressed satisfaction with decision by the Rotterdam Court that Mohamed Bouyeri, the convicted murderer of filmmaker Theo van Gogh, could be tried along with other Hofstad Group members as member of terrorist group; this is the first time a Dutch court has permitted an individual already serving a life sentence to be tried for an additional crime. Of the 12 suspected Hofstad group members charged earlier this year with membership in a terrorist organization, two have been released from jail pending the trial, scheduled to begin in December.

17. (SBU) Prosecutors who attended were National Counter-terrorism Prosecutor Thomas Maan; Digna van Boetzelaer, National Prosecutors' Office Team Leader for CT, money laundering and war crimes cases; Alexander van Dam, one of two prosecutors for the initial Hofstad group case; and Monte van Capelle, Chief Prosecutor, The Hague Court of Appeals, which will hear any terrorism-related appeals.

18. (U) There has been extensive coverage of the arrests and background on the alleged Hofstad group members in the local press. The reports have focused on the alleged farewell videotape; Samir Azzouz's previous acquittal on similar charges and the prosecution's appeal of the acquittal (scheduled to be heard October 13); the Rotterdam court decision October 17 authorizing the seven to be held in custody for 15 days pending the filing of formal charges; the role of the Dutch intelligence service (AIVD) in collecting information about the group's activities; and the links between the seven just arrested and the 12 Hofstad group members already awaiting trial in December.

BLAKEMAN